

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 28, 2003

D040680 American Contractors Indemnity Company v. City of San Diego et al.

Upon written request filed by appellant and cross appellant, the appeals are dismissed and the remittitur is ordered to issue immediately. Each party is to bear its own costs and attorneys fees.

D040628 People v. Shubert

The judgment is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D041627 Natasja P., a Juvenile

The judgment is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., Aaron, J.

D039078 People v. Hoover

The petition for rehearing is denied.

D036167 Whispering Ridge Homeowners Association v. Chaudry

The petition for rehearing is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 29, 2003

D039119 People v. Dailey

The judgment is affirmed. Haller, Acting P.J.; We Concur: McDonald, J., Aaron, J.

D040669 Rosa v. El Portal Group et al.

The judgment is affirmed. O'Rourke, J.; We Concur: Nares, Acting P.J., McIntyre, J.

D037390 St. Paul Mercury Insurance Company v. Frontier Pacific Insurance Company et al.

The November 30, 2000 judgment on St. Paul's complaint and Frontier's cross-complaint is reversed insofar as it concerns the court's (1) finding the St. Paul policy covers Bigge for its own negligence and strict products liability, and (2) presumption the settlement of the underlying litigation was exclusively for claims arising from Bigge's own negligence or strict products liability. The matter is remanded for a trial on the allocation of fault between Schuff and Bigge and the court's reconsideration of equitable apportionment among the insurers. In all other respects that judgment is affirmed. The January 18, 2001 judgment on Frontier's and Bigge's cross-complaint is affirmed. Schuff is awarded costs on appeal from Frontier and Bigge. In all other respects, the parties are to bear their own costs on appeal. McConnell, J.; We Concur: Benke, Acting P.J., Aaron, J.

D040170 In re Raul O., a Juvenile

The judgment is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., Haller, J.

D041778 In re Mercedes P., a Juvenile

The judgment is affirmed. Haller, J.; We Concur: Benke, Acting P.J., McDonald, J.

D039979 Chavez et al. v. Mendoza et al.

The judgment is reversed. The motion for sanctions is denied. Costs on appeal to the Chavezes. Huffman, Acting P.J.; We Concur: Nares, J., Haller, J.

D039972 Sorensen et al. v. Sigelman et al.

The judgment is affirmed. O'Rourke, J.; We Concur: Huffman, Acting P.J., Nares, J.

D038939 People v. Torres

The judgment is affirmed. O'Rourke, J.; We Concur: Huffman, Acting P.J., Nares, J.

D042491 In re Connelly on Habeas Corpus

The petition is denied.

D039163 Hogar Dulce Hogar v. Community Development Commission of the City of Escondido et al.,

The judgment is reversed insofar as it directs that the agency reimburse the Housing Fund for insufficient payment of tax increment funds and insofar as the judgment finds the city liable for the agency's obligations under the CRL. The cause is remanded for further proceedings consistent with the views we have expressed on these two issues. In all other respects the judgment is affirmed. Each party to bear its own costs. CERTIFIED FOR PARTIAL PUBLICATION. Benke, J.; We Concur: Kremer, J., McDonald, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 29, 2003 (continued)

D042187 Muller v. Superior Court of Imperial County/People

The petition is denied.

D042422 Austin v. County of San Diego et al.

Plaintiff Mary Jane Austin's appeal from the court's denial of oral argument in its May 30, 2003 ruling on the demurrer to plaintiff's complaint is dismissed on the ground the challenged order is a nonappealable, interlocutory order.

D038155 People v. Lowe

The trial court's ruling striking the 667, subdivision (a)(1), finding based on the Illinois robberies is reversed. The matter is remanded to the trial court for resentencing. In all other respects the judgment is affirmed. Benke, J., We Concur: Kremer, P.J., O'Rourke, J.

D042366 In re Johnson on Habeas Corpus

The petition is denied without prejudice to seeking relief in superior court.

D042146 In re Fitch on Habeas Corpus

The petition is denied.

D042581 People v. Cobb

The notice of appeal filed July 23, 2003 is dismissed as untimely.

D041695 In re Madriaga on Habeas Corpus

The petition is denied.

D042409 Simone v. Zimmerman

The petition is denied.

D042538 In re Ogle on Habeas Corpus

The petition and companion motion for appointment of counsel are denied. The court is returning the original and three copies of the petition to Ogle so he may file them in the appropriate court.

D041127 In re the Marriage of Zora

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a).

The appeal is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 30, 2003

D040841 In re Conservatorship of Chen

The judgment is affirmed. Nares, Acting P.J.; We Concur: Haller, J., McDonald, J.

D041560 In James F., a Juvenile

The order denying Nolan's section 388 petition and the order terminating parental rights and selecting adoption as James's permanent plan are affirmed. McIntyre, J.; We Concur: Benke, Acting P.J., McDonald, J.

D040118 Kohne v. Amoco Corporation et al.

The order denying Amoco's special motion to strike Kohne's third amended complaint is reversed and the matter is remanded with directions for the trial court to enter a new order granting that motion and to conduct further proceedings, if necessary. Amoco is entitled to costs on appeal. McIntyre, J.; We Concur: Nares, Acting P.J., McDonald, J.

D041204 Evans v. Superior Court of San Diego County/People

Here, petitioner's jury was dismissed without his consent and without legal necessity after jeopardy attached. A second trial is barred by the constitutional guarantee against double jeopardy. Let a peremptory writ of mandate issue directing superior court to vacate its order of November 15, 2002, and to enter an order granting the motion to dismiss. The stay issued by this court on November 21, 2002, is vacated. CERTIFIED FOR PUBLICATION. Benke, Acting P.J.; We Concur: Nares, J., McDonald, J.

D040198 In re the Marriage of Duchene

The order is affirmed. Denis Duchene is to bear costs on appeal. O'Rourke, J.; We Concur: Nares, Acting P.J., McIntyre, J.

D042578 Hanna S. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The petition is denied.

D042590 People v. Martinez

The denial of a petition for writ of habeas corpus is not appealable. The appeal is dismissed.

D042222 In re Markley on Habeas Corpus

The petition is denied.

D042181 Day v. Tarantino et al.

Plaintiff Stephen Day's appeal is dismissed as being from a nonappealable order.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 31, 2003

D039332 People v. Englebrecht

The requests for publication of the opinion are denied.

D041720 In re James S. et al., Juveniles

The judgment terminating Tiffany's and Paul's parental rights to Vanessa is affirmed. The judgments terminating Tiffany's parental rights to James, Ashley, Kyle, and Troy are reversed. The trial court is directed to hold a new section 366.26 hearing consistent with the views expressed in this opinion.

O'Rourke, J.; We Concur: McIntyre, Acting P.J., McConnell, J.

D041832 In re Brian A., a Juvenile

The judgment is affirmed. McIntyre, J.; We Concur: Benke, Acting P.J., McConnell, J.

D042584 People v. Espinal

The denial of a motion for a free copy of a transcript of jury voir dire is not an appealable order. The case is dismissed.

D038958 People v. Lamer

The judgment is affirmed. CERTIFIED FOR PARTIAL PUBLICATION. Aaron, J.;

We Concur: Benke, Acting P.J., McDonald, J.

D042448 In re the Marriage of Carpenter

Appellant Lucy Carpenter's appeal from the March 28, 2003 judgment is dismissed as untimely.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
August 1, 2003

D040201 Pizzino v. Seacoast Equities, Inc.

The judgment is affirmed. Nares, Acting P.J.; We Concur: Haller, J., McDonald, J.

D040481 People v. LaBlanc

The judgment is affirmed. Huffman, J.; We Concur: Benke, Acting P.J., McDonald, J.

D039730 People v. Williams

The judgment is affirmed. CERTIFIED FOR PUBLICATION. Nares, J.;
We Concur: Huffman, Acting P.J., Haller, J.

D040400 People v. Merrick

The judgment is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D039688 Hardy v. Teich

The order is reversed and the matter remanded with directions that the probate court conduct an evidentiary hearing on the issue of whether circumstances exist to justify reformation of the Trust. Garrett Teich shall recover his costs on appeal. O'Rourke, J.; We Concur: McIntyre, Acting P.J., Aaron, J.

D039968 People v. McLaughlin

D039969 People v. McLaughlin

The judgments are affirmed. Benke, Acting P.J.; We Concur: McIntyre, J., Aaron, J.

D042393 Ilko et al. v. Superior Court of San Diego County/Ilko

The filing does not comply with CRC, rule 12.5(c), (d) and (e). The court directs the clerk to cancel the file stamp on the exhibits pursuant to rule 46 and return the exhibits to petitioners' counsel. Petitioners filed a motion to seal the petition itself based on references in the petition to information contained in the improperly filed exhibits. The motion to seal is denied. The clerk is directed to return the conditionally lodged petition to petitioners' counsel. (Rule 2.5(e)(7).) The pendent request for stay is denied. This order is made without prejudice to petitioners refiling the petition and exhibits in conformance with the California Rules of Court.